

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6368

BILL NUMBER: SB 47

DATE PREPARED: May 3, 1999

BILL AMENDED: Apr 29, 1999

SUBJECT: Community corrections/misdemeanants.

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FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) (A) This bill establishes a county misdemeanor fund in each county. It provides a formula for the distribution of money to each county for deposit in the county misdemeanor fund. It repeals provisions requiring: (1) the department of correction to pay a per diem to counties for certain misdemeanor confined in a county jail; (2) a county legislative body to establish a county corrections fund; and (3) a county legislative body to make an election concerning the level of funding that the county will receive from the state for local correctional facilities. It provides that the law concerning direct placement in community corrections programs applies to the sentencing of a person convicted of a misdemeanor whenever any part of the person's sentence may not be suspended. It also makes other related changes and technical corrections.

(B) This bill provides that the law concerning direct placement in community corrections programs applies to the sentencing of a person convicted of: (1) a misdemeanor whenever any part of the person's sentence may not be suspended; and (2) an offense under IC 9-30-5 (operating a vehicle while intoxicated—OWI).

Effective Date: (CCR Amended) Upon passage; July 1, 1999.

Explanation of State Expenditures: (Revised) (A) Two provisions in this bill will impact state expenditures: (1) All counties would be required to participate in a DOC misdemeanor funding program based on one of three possible funding options. (2) The bill eliminates DOC per diem payments to county jails that are housing misdemeanants sentenced to DOC facilities.

(1) Funding to be provided to counties for housing misdemeanants is specified in this bill as “the greatest of the following:” (1) an undetermined appropriation (to be divided among counties based on each county’s funding multiplier); (2) the total amount established for all counties within this bill of \$2.77 M; or (3) the current FY 1999 funding figure of \$2.3 M. No appropriation is made in this bill. Ultimately, the source of funds specified by this bill will depend upon legislative action.

(2) This bill eliminates DOC payments to all counties for housing those misdemeanants who have been

committed to DOC, but are residing in county jails. As of December 14, 1998, these included 188 misdemeanants. The DOC pays counties a per diem of \$35 for up to 180 days to house these misdemeanants. Based on an average daily jail population of 150 to 200 misdemeanants, DOC could save between \$0.9 M. to \$1.3 M. annually. (The per diem cost for county jail misdemeanants, specified here, is part of the estimated \$14 M paid to county jails in FY 1999 for housing all state offenders. There are about 1,500 felons currently housed in county jails awaiting DOC placement.)

Based on the specified funding level of \$2.77 M. (which is \$470,000 more than current funding of \$2.3 M.) and an estimated reduction in misdemeanor expenditures of \$1.1 M, the state would save about \$630,000 annually under the provisions of this bill.

Community corrections programs entail a variety of services operated among 60 counties that receive funding from the state General Fund appropriation for community corrections grants (\$12.6 M in FY 99).

(B) In allowing persons convicted of multiple OWI felonies to serve in community corrections, this bill may cause fewer persons to serve the current mandatory time in DOC facilities (the impact is dependent on the number of felons convicted of previous OWI offenses, which is not available). The following figures apply:

<u>Number of Individuals Incarcerated for Felony Crimes</u>	<u>FY 97</u>	<u>Five Yr. Average</u>
Class D Driving While Intoxicated (at least one previous conviction)	599	433
Class D Driving While Intoxicated Resulting In Serious Bodily Injury	18	19
Class C Driving While Intoxicated Resulting In Death	20	26

OWI Class D felons serve one year and one month, on average. Class C felons serve an average two years, eight months. The FY 1998 average annual cost to house adult offenders was \$17,500, with individual facility costs ranging from \$12,000 to \$29,400.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) (A) Counties are currently reimbursed \$35 per diem by the DOC for the cost of housing misdemeanor offenders in county jails. The average daily cost of housing offenders in county jails is \$44. Under this bill, counties would no longer be reimbursed. This measure may particularly effect counties that have historically sentenced many misdemeanants to the DOC (e.g., Elkhart and Madison counties accounted for 72% of the 156 misdemeanants committed to DOC as calculated in September, 1996).

Depending on the number of OWI felony cases which may be assigned to community corrections, this bill may increase demand for services. Community corrections programs currently include court-ordered work release/residential confinement, home detention and electronic monitoring, restitution programming and victim offender mediation. These services are also supported by user fees (ranging on average from less than one dollar (mediation) to \$13.80 a day (electronic monitoring). Counties participating in community corrections programs pay certain overhead costs (often office space and materials) for these programs.

(B) This bill would apply to persons convicted of nonsuspendible misdemeanor and certain felony OWI offenses (above) who could otherwise not be directly placed in a community corrections program. Currently, there is only one nonsuspendible misdemeanor in statute: the Class A misdemeanor of operating a motor vehicle with a suspended or revoked driving license. Information is unavailable on the number of these

offenses which occur in Indiana. About 4,600 Class A misdemeanor cases and 7,000 Class C and D felony cases made up the majority of the 14,600 community corrections cases, statewide, as of June 30, 1998 (no specific sentence data is available).

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: County jails; entities operating county community corrections programs.

Information Sources: Planning Division, Department of Correction; Indiana Sheriffs Association.